

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----X
UNITED STATES OF AMERICA

NOTICE OF MOTION

v.

15 Cr 455 (JSR)

JAVIER JUOAQUIN ALARCON PRADO,
LUIS ARMANDO VALENCIA BAUTISTA, and
HECTOR VALENCIA BAUTISTA
-----X

PLEASE TAKE NOTICE that upon the annexed affidavit of Hector Valencia Bautista, memorandum of law, and all papers and prior proceedings had herein, the defendant, Hector Valencia Bautista, will make a motion before the United States District Court, 500 Pearl Street, New York, New York, on October 5, 2015, or as soon thereafter as counsel may be heard, for Orders:

- (1) Due to spoliation of evidence (a) dismissing the indictment; (b) precluding the government from eliciting testimony about a “go-fast boat,” global positioning devices, boat registration papers, or any other evidence that law enforcement officers destroyed in the Pacific Ocean on June 19, 2015; (c) precluding trial testimony by any witnesses who were involved in the destruction of the evidence, and (d) charging the jury that an adverse inference may be drawn against the government;
- (2) Suppressing a post-arrest statement, pursuant to Rule 12 (b)(3)(C) of the Federal Rules of Criminal Procedure on the grounds that it was involuntary and elicited in violation of the precepts of Miranda and the Fifth and Sixth Amendments to the United States Constitution;
- (3) Permission to join in the motions of co-defendants, in particular the

motion to dismiss filed today by the Federal Defenders of New York;

(4) Such other and further relief as the Court deems just and appropriate.

Dated: September 11, 2015

Donald Yannella, P.C.

/s/

By: _____
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